1945 K File No. O Entertainments 45

Legal DEPARTMENT

A. BRANCH

Subject:— opinions under the Bombay Entertainments Duty Act 1923

(P. 1/45)

File No. O Entertainments 1/45

Std. Sctt. Slip 21 B a.

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Office of the R.L.A.

It appears that admission to the last Session of the All-India Congress Committee in Bombay was by tickets except in the case of a few privileged guests and the tickets varied in price from Rs. 10/- to Rs. 100/-. The question referred to the R.L.A. for consideration is whether the All-India Congress Committee Session was an 'entertainment' within the meaning of section 2(a) of the Bombay Entertainments Duty Act, 1923.

2. "Entertainment" as defined in section 2(a) of the said Act includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment. The preamble of the Act explains that "it is expedient to provide for the levy of a duty in respect of admission to theatres, cinemas, and other places of public entertainment." If any weight is to be attached to the preamble the expression "other places of public entertainment" appearing therein must be read ejusdem generis with theatres and cinemas. But as observed by the Advocate General in his opinion No. 45 dated 16th August 1939, "though the preamble is an intergral and important part of the Statute, it has been held that if the meaning of the enactment is clear and unequivocal without the preamble, the preamble can have no effect whatever. The rule has been thus stated by Lord Halsbury in 1899 A.C. 143 at p. 157; :

'Two propositions are quite clear, one that a preamble may afford useful light as to what a Statute intends to reach, and the other that if an enactment is itself clear and unambiguous no preamble can qualify or cut down the enactment.'"

Applying t is rule to the present case it is doubtful if there is anything ambiguous in section 2(a) to justify resort to the preamble for clarification.

3. Now the quest on for consideration is whether the Congress Session to which the public are admitted on payment can properly be described as a place of entertainment. The definition of 'entertainment' in section 2(a) is not exhaustive but only inclusive and consequently the word has to be given its ordinary and natural meaning which, according to Murry's Dictionary, is "that which affords interest or amusement." Amusement or diversion appears to be the over-riding intention of an entertainment as contemplated by the Act. Entertainment

has been defined in Iyer's Law Lexicon as "the act of furnishing accommodation, refreshment, good cheer or diversion; mental enjoyment, instruction or amusement afforded by anything seen or heard; the act of providing gratification or diversion." In Reid v. Wilson and Ward (1894, 1 Q.B. 315) it was assumed that a lecture on art, science, literature, and other subjects was an amusement. In Baxter v. Langley (1869, L.R. 4 C.P. 21) Byles J. at p. 24-25 observes as follows:-

> "It is not easy nor indeed necessary to define the exact meaning of the word 'entertainment' in this connection, but perhaps the two words 'entertainment' mirth or amusement' reflect light on each other .... It is not however necessary to express any opinion on any question which might arise e.g., whether the meetings for more instruction be within the statute whether for instance a lecture on the higher branches of pure mathematics would be an 'entertainment' within the statute. But whatever the true definition of the expression 'entertainment or amusement' may be, we think it quite clear that meetings for religious worship are not within the Act ..... It is sufficient to say that in our opinion a place duly or honestly registered as a place of public worship in which no music but sacred music is performed or sung, where nothing dramatic is introduced where discourses delivered are intended to be instructive and contain nothing hostile to religion, where the objects of the promoters may be either to advance their own views of religion or as they allege 'to make science the handmaid of religion' is not used for public entertainment or amusement wit in the statute."

The ration decidendi of that decision appears to be that a discourse on a seribus subject would not ordinarily be an entertainment. At the All-India Congress Session important and delicate political matter were discussed and means devised for implementing the decisions arrived thereupon. The proceedings were primarily of a serious and vitally important character and it would, I think, be straining the language to describe them as an entertainment. Since they were the official proceedings of the All-India Congress they would not, in my opinion, come within the purview of the Entertainments Duty Actg 1923.

Sd./- P.N.M.
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Remembrancer of Legal Affairs.

U.R. to R.D. No. 325-Confl., dated the 31st October 1945.

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